

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1297

Chapter 195, Laws of 2021

67th Legislature
2021 Regular Session

WORKING FAMILIES TAX EXEMPTION

EFFECTIVE DATE: July 25, 2021

Passed by the House April 15, 2021
Yeas 93 Nays 3

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2021
Yeas 47 Nays 2

DENNY HECK

President of the Senate

Approved May 4, 2021 2:56 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1297** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 5, 2021

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1297

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By House Appropriations (originally sponsored by Representatives Thai, Stokesbary, Ramel, Ryu, Robertson, Leavitt, Bateman, Fitzgibbon, Shewmake, Chapman, J. Johnson, Senn, Frame, Riccelli, Chopp, Wylie, Wicks, Simmons, Boehnke, Berry, Davis, Tharinger, Walsh, Eslick, Goodman, Peterson, Santos, Valdez, Cody, Chambers, Kloba, Ramos, Kirby, Bronoske, Gregerson, Macri, Callan, Paul, Sells, Bergquist, Ormsby, Pollet, Slatter, Stonier, Taylor, and Harris-Talley)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to the working families tax exemption; amending
2 RCW 82.08.0206; creating new sections; prescribing penalties; and
3 providing a contingent expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) Many Washington families do not earn
6 enough annually to keep pace with increasing health care, child care,
7 housing, and other essential expenses.

8 (2) Amidst rising cost of living across the state, the regressive
9 nature of Washington's tax code puts an additional strain on
10 households already struggling to meet their basic needs. Washington's
11 tax system is the most upside down and regressive in the nation,
12 allowing those who earn the most to pay the least percentage of their
13 income in taxes. As a percentage of household income, low-income
14 Washingtonians, who are disproportionately Black, American Indian and
15 Alaska Native, Latinx, Native Hawaiian and Pacific Islander, and
16 multiracial Washingtonians, pay six times more in taxes than our
17 wealthiest residents.

18 (3) Eligibility for the working families tax exemption is based
19 on eligibility for the federal earned income tax credit, a refundable
20 tax credit for working individuals and families whose earnings are
21 below an income threshold. Since its establishment in 1975, the

1 earned income tax credit has increased family income, reduced child
2 poverty, and improved health, educational, and career outcomes for
3 children in low-income families. Taxpayers filing with an individual
4 tax identification number and their families, however, are excluded
5 from receiving the federal credit and its corollary benefits to
6 health and well-being, despite paying local, state, and federal
7 taxes.

8 (4) Since its establishment in 1975, the earned income tax credit
9 has also had a positive impact on local businesses because it puts
10 more money in the hands of low-income working people who spend the
11 money on immediate needs, such as groceries, transportation, rent,
12 and health care. The credit has been shown to have a multiplier
13 effect to support local businesses, generating an estimated \$1.50 to
14 \$2.00 in local economic activity for every dollar received by
15 beneficiaries.

16 (5) Therefore, it is the public policy objective of the
17 legislature to stimulate local economic activity, advance racial
18 equity, and promote economic stability and well-being for lower-
19 income working people, including individual tax identification number
20 filers, by updating and simplifying the structure of the working
21 families tax exemption.

22 **Sec. 2.** RCW 82.08.0206 and 2008 c 325 s 2 are each amended to
23 read as follows:

24 (1) A working families' tax exemption, in the form of a
25 remittance of tax due under this chapter and chapter 82.12 RCW, is
26 provided to eligible low-income persons for sales taxes paid under
27 this chapter after January 1, ~~((2008))~~ 2022.

28 (2) For purposes of the exemption in this section, ~~((an eligible
29 low-income person is))~~ the following definitions apply:

30 (a) ~~((An))~~ (i) Except as provided in (a)(ii) of this subsection,
31 "eligible low-income person" means an individual ~~((, or an individual
32 and that individual's spouse if they file a federal joint income tax
33 return;~~

34 ~~(b) [An individual who] Who is))~~ who:

35 (A) Is eligible for ~~((, and is granted,))~~ the credit provided in
36 Title 26 U.S.C. Sec. 32; and

37 ~~((c) [An individual who] Who properly))~~ (B) Properly files a
38 federal income tax return as a Washington resident, and has been a

1 resident of the state of Washington more than one hundred eighty days
2 of the year for which the exemption is claimed.

3 (ii) "Eligible low-income person" also means an individual who:

4 (A) Meets the requirements provided in (a)(i)(B) of this
5 subsection; and

6 (B) Would otherwise qualify for the credit provided in Title 26
7 U.S.C. Sec. 32 except for the fact that the individual filed a
8 federal tax return in the prior year using a valid individual
9 taxpayer identification number in lieu of a social security number,
10 or the individual has a spouse or dependent without a social security
11 number.

12 (b) "Income" means earned income as defined by Title 26 U.S.C.
13 Sec. 32.

14 (c) "Individual" means an individual and that individual's spouse
15 if they file a federal joint income tax return.

16 (d) "Qualifying child" means a qualifying child as defined by
17 Title 26 U.S.C. Sec. 32, except the child may have a valid individual
18 taxpayer identification number in lieu of a social security number.

19 ~~(3) ((For remittances made in 2009 and 2010, the working~~
20 ~~families' tax exemption for the prior year is a retail sales tax~~
21 ~~exemption equal to the greater of five percent of the credit granted~~
22 ~~as a result of Title 26 U.S.C. Sec. 32 in the most recent year for~~
23 ~~which data is available or twenty-five dollars. For 2011)) (a) Except~~
24 ~~as provided in (b) and (c) of this subsection, for 2023 and~~
25 ~~thereafter, the working families' tax ((exemption)) remittance amount~~
26 ~~for the prior year is ((equal to the greater of ten percent of the~~
27 ~~credit granted as a result of Title 26 U.S.C. Sec. 32 in the most~~
28 ~~recent year for which data is available or fifty dollars))):~~

29 (i) \$300 for eligible persons with no qualifying children;

30 (ii) \$600 for eligible persons with one qualifying child;

31 (iii) \$900 for eligible persons with two qualifying children; or

32 (iv) \$1,200 for eligible persons with three or more qualifying
33 children.

34 (b) The remittance amounts provided in (a) of this subsection
35 will be reduced, rounded to the nearest dollar, as follows:

36 (i) For eligible persons with no qualifying children, beginning
37 at \$2,500 of income below the federal phase-out income for the prior
38 federal tax year, by 18 percent per additional dollar of income until
39 the minimum credit amount as specified in (c) of this subsection is
40 reached.

1 (ii) For eligible persons with one qualifying child, beginning at
2 \$5,000 of income below the federal phase-out income for the prior
3 federal tax year, by 12 percent per additional dollar of income until
4 the minimum credit amount as specified in (c) of this subsection is
5 reached.

6 (iii) For eligible persons with two qualifying children,
7 beginning at \$5,000 of income below the federal phase-out income for
8 the prior federal tax year, by 15 percent per additional dollar of
9 income until the minimum credit amount as specified in (c) of this
10 subsection is reached.

11 (iv) For eligible persons with three or more qualifying children,
12 beginning at \$5,000 of income below the federal phase-out income for
13 the prior federal tax year, by 18 percent per additional dollar of
14 income until the minimum credit amount as specified in (c) of this
15 subsection is reached.

16 (c) If the remittance for an eligible person as calculated in
17 this section is greater than one cent, but less than \$50, the
18 remittance amount is \$50.

19 (d) The remittance amounts in this section shall be adjusted for
20 inflation every year beginning January 1, 2024, based upon changes in
21 the consumer price index during the previous calendar year.

22 (e) For purposes of this section, "consumer price index" means,
23 for any calendar year, that year's average consumer price index for
24 the Seattle, Washington area for urban wage earners and clerical
25 workers, all items, compiled by the bureau of labor statistics,
26 United States department of labor.

27 ~~(4) ((For any fiscal period, the working families' tax exemption~~
28 ~~authorized under this section shall be approved by the legislature in~~
29 ~~the state omnibus appropriations act before persons may claim the~~
30 ~~exemption during the fiscal period.~~

31 ~~(5))~~ The working families' tax exemption shall be administered
32 as provided in this subsection.

33 (a) The remittance paid under this section will be paid to
34 eligible filers who apply pursuant to this subsection.

35 (i) Application must be made to the department in a form and
36 manner determined by the department. If the application process is
37 initially done electronically, the department must provide a paper
38 application upon request. The application must include any
39 information and documentation as required by the department.

1 (ii) Application for the remittance under this section must be
2 made in the year following the year for which the federal return was
3 filed, but in no case may any remittance be provided for any period
4 before January 1, 2022. The department must use the eligible person's
5 most recent federal tax filing to process the remittance.

6 (iii) A person may not claim an exemption on behalf of a deceased
7 individual. No individual may claim an exemption under this section
8 for any year in a disallowance period under Title 26 U.S.C. Sec.
9 32(k)(1) or for any year for which the individual is ineligible to
10 claim the credit in Title 26 U.S.C. Sec. 32 by reason of Title 26
11 U.S.C. Sec. 32(k)(2).

12 (b) The department shall protect the privacy and confidentiality
13 of personal data of remittance recipients in accordance with chapter
14 82.32 RCW.

15 (c) The department shall, in conjunction with other agencies or
16 organizations, design and implement a public information campaign to
17 inform potentially eligible persons of the existence of, and
18 requirements for, this section.

19 (d) The department must work with the internal revenue service to
20 administer the exemption on an automatic basis as soon as
21 practicable.

22 (5) Receipt of the remittance under this section may not be used
23 in eligibility determinations for any state income support programs
24 or in making public charge determinations.

25 (6) The department may adopt rules necessary to implement this
26 section. This includes establishing a date by which applications will
27 be accepted, with the aim of accepting applications as soon as
28 possible. The department may gather necessary data through audit and
29 other administrative records, including verification through internal
30 revenue service data.

31 (7) The department must review the application and determine
32 eligibility for the working families' tax exemption based on
33 information provided by the applicant and through audit and other
34 administrative records, including, when it deems it necessary,
35 verification through internal revenue service data.

36 (8) If, upon review of internal revenue service data or other
37 information obtained by the department, it appears that an individual
38 received a remittance that the individual was not entitled to, or
39 received a larger remittance than the individual was entitled to, the
40 department may assess against the individual the overpaid amount. The

1 department may also assess such overpaid amount against the
2 individual's spouse if the remittance in question was based on both
3 spouses filing a joint federal income tax return for the year for
4 which the remittance was claimed.

5 (a) Interest as provided under RCW 82.32.050 applies to
6 assessments authorized under this subsection (8) starting six months
7 after the date the department issued the assessment until the amount
8 due under this subsection (8) is paid in full to the department.
9 Except as otherwise provided in this subsection, penalties may not be
10 assessed on amounts due under this subsection.

11 (b) If an amount due under this subsection is not paid in full by
12 the date due, or the department issues a warrant for the collection
13 of amounts due under this subsection, the department may assess the
14 applicable penalties under RCW 82.32.090. Penalties under this
15 subsection may not be made due until six months after their
16 assessment.

17 (c) If the department finds by clear, cogent, and convincing
18 evidence that an individual knowingly submitted, caused to be
19 submitted, or consented to the submission of, a fraudulent claim for
20 remittance under this section, the department must assess a penalty
21 of 50 percent of the overpaid amount. This penalty is in addition to
22 any other applicable penalties assessed in accordance with (b) of
23 this subsection (8).

24 (9) If, within the period allowed for refunds under RCW
25 82.32.060, the department finds that an individual received a lesser
26 remittance than the individual was entitled to, the department must
27 remit the additional amount due under this section to the individual.

28 (10) Interest does not apply to remittances provided under this
29 act.

30 (11) Chapter 82.32 RCW applies to the administration of this
31 section.

32 ~~((a) An eligible low-income person claiming an exemption under~~
33 ~~this section must pay the tax imposed under chapters 82.08, 82.12,~~
34 ~~and 82.14 RCW in the year for which the exemption is claimed. The~~
35 ~~eligible low-income person may then apply to the department for the~~
36 ~~remittance as calculated under subsection (3) of this section.~~

37 ~~(b) Application shall be made to the department in a form and~~
38 ~~manner determined by the department, but the department must provide~~
39 ~~alternative filing methods for applicants who do not have access to~~
40 ~~electronic filing.~~

1 ~~(c) Application for the exemption remittance under this section~~
2 ~~must be made in the year following the year for which the federal~~
3 ~~return was filed, but in no case may any remittance be provided for~~
4 ~~any period before January 1, 2008. The department may use the best~~
5 ~~available data to process the exemption remittance. The department~~
6 ~~shall begin accepting applications October 1, 2009.~~

7 ~~(d) The department shall review the application and determine~~
8 ~~eligibility for the working families' tax exemption based on~~
9 ~~information provided by the applicant and through audit and other~~
10 ~~administrative records, including, when it deems it necessary,~~
11 ~~verification through internal revenue service data.~~

12 ~~(e) The department shall remit the exempted amounts to eligible~~
13 ~~low-income persons who submitted applications. Remittances may be~~
14 ~~made by electronic funds transfer or other means.~~

15 ~~(f) The department may, in conjunction with other agencies or~~
16 ~~organizations, design and implement a public information campaign to~~
17 ~~inform potentially eligible persons of the existence of and~~
18 ~~requirements for this exemption.~~

19 ~~(g) The department may contact persons who appear to be eligible~~
20 ~~low-income persons as a result of information received from the~~
21 ~~internal revenue service under such conditions and requirements as~~
22 ~~the internal revenue service may by law require.~~

23 ~~(6) The provisions of chapter 82.32 RCW apply to the exemption in~~
24 ~~this section.~~

25 ~~(7) The department may adopt rules necessary to implement this~~
26 ~~section.~~

27 ~~(8) The department shall limit its costs for the exemption~~
28 ~~program to the initial start-up costs to implement the program. The~~
29 ~~state omnibus appropriations act shall specify funding to be used for~~
30 ~~the ongoing administrative costs of the program. These ongoing~~
31 ~~administrative costs include, but are not limited to, costs for: The~~
32 ~~processing of internet and mail applications, verification of~~
33 ~~application claims, compliance and collections, additional full-time~~
34 ~~employees at the department's call center, processing warrants,~~
35 ~~updating printed materials and web information, media advertising,~~
36 ~~and support and maintenance of computer systems.)~~

37 NEW SECTION. **Sec. 3.** The provisions of RCW 82.32.805 do not
38 apply to this act.

1 NEW SECTION. **Sec. 4.** (1) This section is the tax preference
2 performance statement for the tax preference contained in section 2,
3 chapter . . . , Laws of 2021 (section 2 of this act). This performance
4 statement is only intended to be used for subsequent evaluation of
5 the tax preference. It is not intended to create a private right of
6 action by any party or be used to determine eligibility for the
7 preferential tax treatment.

8 (2) The legislature categorizes this tax preference as one
9 intended to provide tax relief for certain individuals as indicated
10 in RCW 82.32.808(2) (e).

11 (3) It is the legislature's specific public policy objective to
12 allow low-income and middle-income workers to recover some or all of
13 the sales tax they pay to support state and local government as a way
14 to increase their economic security and to decrease the regressivity
15 of our state tax code. It is the legislature's intent to provide a
16 sales and use tax credit, in the form of a remittance, to low-income
17 and middle-income working families.

18 (4) The joint legislative audit and review committee shall review
19 this preference in 2028 and every 10 years thereafter. If a review
20 finds that the working families' tax credit does not provide
21 meaningful financial relief to low-income and middle-income
22 households, this act shall expire at the end of the calendar year two
23 years after the adoption of the final report containing that finding.
24 In its review of the program, the joint legislative audit and review
25 committee should use at least the following metrics: Size of the
26 benefit per household, number of household beneficiaries statewide,
27 and demographic information of beneficiaries to include family size,
28 income level, race and ethnicity, and geographic location.

29 (5) In order to obtain the data necessary to perform the review
30 in subsection (4) of this section, the joint legislative audit and
31 review committee may refer to the remittance data prepared by the
32 department of revenue.

Passed by the House April 15, 2021.
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